IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

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W.P.No.7611 of 2003 and W.P.M.P.18365 of 2004

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W.P.NO: 7611 of 2003

Between:

M/s.Tribal Co-operative Marketing Development Federation of India Limited,

(Ministry of Tribal Affairs, Government of India), 510, 5th Floor,

Babukhan Estate, Basheerbagh, Hyderabad, represented by its Regional Manager Sri M.Jagadish.

..... PETITIONER

AND

1. The Commercial Tax Officer, Nampally Circle, Hyderabad.
2. The Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction particularly one in the nature of Writ of Certiorary after calling for the records and quash the impugned revised final assessment order dated 15.03.2003 for the assessment year 1995-96 (APGST) passed by the first respondent.

W.P.M.P.18365 of 2004

Between:

M/s.Tribal Co-operative Marketing Development Federation of India Limited,

(Ministry of Tribal Affairs, Government of India), 510, 5th Floor,

Babukhan Estate, Basheerbagh, Hyderabad, represented by its Regional Manager Sri M.Jagadish. **..... PETITIONER**

(Petitioners inW.P.NO : 7611 of 2003
on the file of High Court)

AND

1. The Commercial Tax Officer, Nampally Circle, Hyderabad.
2. The Commissioner of Commercial Taxes, Andhra Pradesh,

Hyderabad. **.....RESPONDENTS**

(Respondents in -do-)

Petition under Order 9 Rule 13 read with Section 151 of the C.P.C., praying that in the circumstances stated in the affidavit filed herewith, the High Court will be pleased to set aside the exparty order passed in WPMP No.9935 of 2003 in WP.No.7611 of 2003 dated 5-8-2004 and restore the earlier order.

W.P.M.P.No.9935 of 2003

Between:

M/s.Tribal Co-operative Marketing Development Federation of India Limited,

(Ministry of Tribal Affairs, Government of India), 510, 5th Floor,

Babukhan Estate, Basheerbagh, Hyderabad, represented by its Regional Manager Sri M.Jagadish. **..... PETITIONER**

(Petitioners inW.P.NO : 7611 of 2003
on the file of High Court)

AND

1. The Commercial Tax Officer, Nampally Circle, Hyderabad.
2. The Commissioner of Commercial Taxes, Andhra Pradesh,

Hyderabad. **.....RESPONDENTS**

(Respondents in -do-)

Petition under Section 151 C.P.C., praying the High Court to grant stay of collection of the disputed tax of Rs.37,50,325/- arising in pursuance of the revised final assessment order dated 15.3.2003 for the assessment year 1995-96 (APGST) passed by the first respondent.

Counsel for the Petitioner in all the petitions : MR.SKRISHNA MURTHY, Advocate.

Counsel for the Respondents in all the petitions :SPL GP FOR TAXES

The Court made the following :

COMMON ORDER : (Per Sri Bilal Nazki, J).

On the last occasion we had vacated the stay on the ground that the order impugned was appellable. Application has been filed for grant of stay.

We have heard learned Counsel for the parties. A Special Appeal is pending against the order by which the case was remanded for fresh assessment. As a result of the order of remand, fresh assessment has been made, which is the subject matter of this Writ Petition. Since the appeal is pending against the order of remand in consequence of which the impugned order has been passed, we deem it appropriate to pass the following order :

We feel that the interest of justice would be met if stay is granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the impugned order of assessment and direct that half of the disputed tax liability shall be paid by the petitioner within a period of six weeks. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within six weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal.

Writ Petition and W.P.M.P. are disposed of accordingly. No costs.

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(BILAL NAZKI, J)

12th August, 2004.

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(S.ANANDA REDDY, J)

N.B:-

Wire at party's cost.

(B/o)

ajr.

To

1. The Commercial Tax Officer, Nampally Circle, Hyderabad.

2. The Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad.

3 Two C.Cs. to the Special G.P. for Taxes, High Court buildings, Hyderabad (O.U.T.)

4 Two C.D. copies.